

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KEVIN SELKOWITZ, an individual,

Plaintiff

v.

LITTON LOAN SERVICING LP, a Delaware Limited Partnership; NEW CENTURY MORTGAGE CORPORATION, a California Corporation; QUALITY LOAN SERVICE CORPORATION OF WASHINGTON, a Washington Corporation ; FIRST AMERICAN TITLE INSURANCE COMPANY, a Washington Corporation; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., a Delaware Corporation, and DOE Defendants 1-20,

NO. 3:10-cv-05523-JCC

**PLAINTIFF'S SUPPLEMENTAL RESPONSE
TO ORDER TO SHOW CAUSE**

**NOTE ON MOTION CALENDAR:
October 27, 2010**

In supplement to Plaintiff's previous response to the Court's October 6, 2010 Order directing all parties to show cause why the Court should not submit the issue of whether MERS was authorized an authorized "beneficiary" under Washington's Deed of Trust Act, the Court should be advised that on January 18, 2011, the Honorable James Rogers certified the same issues proposed by this Court to the Washington Supreme Court in the matter of *Vinluan v. Fidelity National Title*, King County Superior Court Cause No. 10-2-27688-2 SEA. A copy of Judge Rogers' Order of January 18, 2011 is attached hereto.

Judge Rogers' Order of January 18, 2011 confirms this Court's concern that there is no

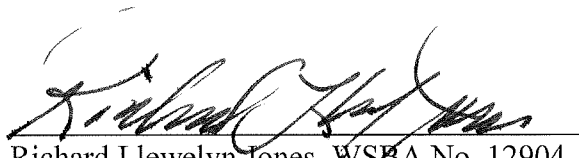
1 existing Washington case law that adequately addresses the suitability of Mortgage Electronic
2 Registration Systems, or any other agent or nominee of the lender, to serve as “beneficiary” of a
3 deed of trust, within the terms of *RCW 61.24.050(2)*, without being a holder in due course of the
4 obligation secured by the deed of trust.

5 As Judge Rogers’ certification under *RAP 2.3* involves discretionary review, there is a
6 chance that the Washington Supreme Court may decline consideration of Judge Rogers’ certified
7 issues. Accordingly, this Court’s referral of the same issues would not be moot or a waste of
8 time and judicial effort.

9 On the foregoing, Plaintiff renews his request that the issues raised in the Court’s Order
10 of October 6, 2010 be certified to the Washington Supreme Court pursuant to *RCW 2.60.030*.

11 **RESPECTFULLY SUBMITTED** this 31st day of January, 2011.

12 **RICHARD LLEWELYN JONES, P.S.**


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14 Richard Llewelyn Jones, WSBA No. 12904
15 Attorney for Plaintiff
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CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury of the laws of the State of Washington that on this 31st day of January, 2011, I caused to be delivered a copy of the foregoing PLAINTIFF'S SUPPLEMENTAL RESPONSE TO ORDER TO SHOW CAUSE to the following in the manner indicated:

Ann T. Marshall Bishop White Marshall & Weibel PS 720 Olive Way Ste 1301 Seattle, WA 98101-1834	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile
Heidi E. Buck Routh Crabtree Olsen, P.S. 3535 Factoria Blvd SE Ste 200 Bellevue, WA 98006-1263	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile
Kennard M. Goodman Bishop White Marshall & Weibel PS 720 Olive Way Ste 1301 Seattle, WA 98101-1834	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile
Mary Stearns McCarthy & Holthus LLP 19735 – 10 th Avenue NE, Suite N200 Poulsbo, WA 98370	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile

Signed this 31st day of January, 2011 at Bellevue, Washington.


Susan L. Rodriguez
Paralegal to Richard Llewelyn Jones, P.S.